

SECTION 10  
**NONCONFORMING USES AND STRUCTURES**

**10.01 A NONCONFORMING STATUS SHALL EXIST ONLY WHEN:**

- A. A use or structure, which does not conform to the regulations prescribed in the district in which such use or structure is located, was in existence and lawfully operating prior to the adoption of the previous Zoning Ordinance, 93-07-11, adopted July 20, 1993, and has been operating since, without discontinuance; or
- B. On the effective date of this Ordinance, the use or structure was in existence and lawfully constructed, located and operating in accordance with the provisions of the previous Zoning Ordinance or which was a nonconforming use thereunder, and which use or structure does not now conform to the regulations herein prescribed for the district in which the use or structure is located; or
- C. The use or structure existed when the land occupied by the use or structure was annexed into the City and has continuously existed as a non-conforming use.

10.02 No nonconforming use or structure may be expanded or increased beyond the lot or tract upon which such nonconforming use is located as of the effective date of this Ordinance except to provide off-street loading or off-street parking space upon approval of the Board of Adjustment.

10.03 Repairs and normal maintenance may be made to a nonconforming building provided that no structural alterations, expansions, or extensions shall be made except those required by law or ordinance, unless the building is changed to a conforming use.

10.04 Any nonconforming use may be changed to a conforming use, and once such change is made, the use shall not thereafter be changed back to a nonconforming use.

10.05 Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by securing a Certificate of Occupancy from the Building Official.

10.06 Whenever a nonconforming use is abandoned, all nonconforming rights shall cease and the use of the premises shall thenceforth be in conformity with this Ordinance.

Abandonment shall involve the intent of the user or owner to discontinue a nonconforming use for a period of six (6) months and shall be construed as conclusive proof of intent to abandon the nonconforming use. Any nonconforming use which, not involving a permanent type of structure, is moved from the premises shall be considered to have been abandoned.

- 10.07 If a structure occupied by a nonconforming use is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of this Ordinance. In the case of partial destruction of a nonconforming use not exceeding sixty percent (60%) of its reasonable value, reconstruction will be permitted, but the size or function of the nonconforming use cannot be expanded.
- 10.08 In addition to the above, the right to operate a non-conforming use shall cease, and such use shall be terminated under any of the following circumstances:
- A. Whenever there occurs a violation of any of the provisions of this Ordinance or violation of any Ordinance of the City with respect to a non-conforming use; or
  - B. Whenever a non-conforming use is changed to a conforming use by rezoning so as to achieve compliance with the provisions of a new or different zoning district; or
  - C. Whenever a non-conforming use is changed to a conforming use under the provisions of this Ordinance; or
  - D. Whenever the right to maintain or operate a non-conforming use is terminated by the Board of Adjustment in accordance with its policies; or
  - E. Failure to obtain a certificate of occupancy in compliance of the terms of this Ordinance.
- 10.09 The operator, owner or occupant of any non-conforming uses of land or buildings shall, within twelve (12) months after the earlier date on which the same became non-conforming or the date of publication of this Ordinance, register such non-conforming use by obtaining from the City Manager or his designee a certificate of occupancy. Such certificate of occupancy (non-conforming) is required to maintain a non-conforming use status. Failure to timely obtain a certificate of occupancy shall terminate the non-conforming use which shall then be subject to and shall comply with the Ordinances of the City.